

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 07-7695**

---

ERICKO TRAVELL HARLEY,

Petitioner - Appellant,

v.

STATE OF SOUTH CAROLINA; STAN BURTT, Warden of Lieber  
Correctional Institution,

Respondents - Appellees.

---

Appeal from the United States District Court for the District of  
South Carolina, at Beaufort. David C. Norton, District Judge.  
(9:07-cv-01750-DCN)

---

Submitted: March 25, 2008

Decided: March 28, 2008

---

Before MOTZ, KING, and GREGORY, Circuit Judges.

---

Dismissed by unpublished per curiam opinion.

---

Ericko Travell Harley, Appellant Pro Se.

---

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ericko Travell Harley seeks to appeal the district court's order adopting the report and recommendation of the magistrate judge and dismissing without prejudice his 28 U.S.C. § 2241 (2000) petition. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Dir., Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on September 4, 2007. The notice of appeal was filed on November 2, 2007.\* Because Harley failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the

---

\*For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. See Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

materials before the court and argument would not aid the decisional process.

DISMISSED